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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/718,555	11/24/2003	Yasuyuki Ikeguchi	042223	1265
38834 7590 08/20/2008 WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP 1250 CONNECTICUT AVENUE, NW SUITE 700 WASHINGTON, DC 20036				
EXAMINER ALAM, MUSHFIK H				
ART UNIT 2623		PAPER NUMBER		
MAIL DATE 08/20/2008		DELIVERY MODE PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/718,555

Applicant(s)

IKEGUCHI, YASUYUKI

Examiner

MUSHFIKH ALAM

Art Unit

2623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 June 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 4-6 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 4-6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-946)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims 4-6 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 4-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Aria et al. (US 2002/0133820) in view of Ibrahim Sezan et al. (US 2004/0268390) and further in view of Ellis (US 7370343).

Claim 4, Aria teaches a broadcasting receiver configured such that a channel can be changed by comprising a channel UP/DOWN key, a broadcasting receiver comprising:

- an analog broadcasting receiving unit (100) for receiving analog broadcasting (see fig. 1; paragraph [0008]);
- a digital broadcasting receiving unit (100) for receiving digital broadcasting (see fig. 1; paragraph [0008]);

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- means for acquiring information as to whether or not the same program is being broadcast in analog broadcasting and digital broadcasting, to judge whether or not there is simulcast (see fig. 68, 70; paragraph [0214]); and

Aria does not teach a broadcasting receiver configured such that a channel can be changed by comprising a channel UP/DOWN key, a broadcasting receiver comprising:

- means for erasing an analog channel, without user intervention, on the basis of an internal clock from a list in said channel UP/DOWN key.

Ibrahim Sezan teaches a broadcasting receiver configured such that a channel can be changed by comprising a channel UP/DOWN key (EPG), a broadcasting receiver comprising:

- means for erasing a channel (i.e. a user choosing a digital channel preference will erase analog channels) on the basis of an internal clock (broadcast schedule) in said channel UP/DOWN key (graphical user interface) (see paragraph [0236]).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided a user preference where a user would prefer digital channels as taught by Ibrahim Sezan to the broadcasting system of Aria because it permits a user to narrow down the choices of channels he would like to view (see paragraph [0235]).

Ellis teaches a broadcasting receiver configured such that a channel can be changed by comprising a channel UP/DOWN key, a broadcasting receiver comprising:

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- means for erasing a channel (replacing), without user intervention (venue refusal), on the basis of an internal clock (time of event) from a list in said channel UP/DOWN key (fig. 10, 13; column 16, lines 19-31).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided replacement of programs in a guide without viewer intervention as taught by Ellis to the analog and digital simulcasting of Aria, Ibrahim Sezan to illustrate to users changes in the EPG guide schedule (col. 1, line 55-col. 2, line 7).

Claim 5, Aria teaches the broadcasting receiver further comprising:

- means for displaying on a screen a message ("same program now serving on digital BS") that the same program is being broadcast in digital broadcasting when analog broadcasting in simulcast is being received (fig. 68).

Claim 6, Aria teaches the broadcasting receiver wherein

- digital broadcasting in simulcast is received when a predetermined key (selecting to switch to digital BS) is operated in a state where said message is displayed (fig. 68; paragraph [0216]).

Inquiries

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MUSHFIKH ALAM whose telephone number is (571)270-1710. The examiner can normally be reached on Mon-Fri: 8:30-18:00 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vivek Srivastava can be reached on (571) 272-7304. The fax phone

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number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MA
8/11/2008

/Vivek Srivastava/
Supervisory Patent Examiner, Art Unit 2623